

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FOUR WINDS BEHAVIORAL HEALTH, INC.,

Plaintiff

v.

No. 1:23-cv-00013-KWR-JFR

ALLERTECH LABORATORIES, INC.,

Defendant,

ORDER TO SHOW CAUSE

THIS MATTER comes before the Court *sua sponte*. Rule 4 of the Federal Rules of Civil Procedure states that “[t]he plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m).” Fed. R. Civ. P. 4(c)(1). Rule 4(m) provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.
Fed. R. Civ. P. 4(m).

Plaintiff filed its complaint on January 6, 2023. Based on the docket, it appears that Plaintiff has yet to serve Defendant, and more than 90 days have passed since the filing of the complaint. Although Plaintiff filed a document titled Return on Summons Executed (Doc. 5) on March 10, 2023, that document does not appear to demonstrate that service has been effectuated. Therefore, it appears that Plaintiff has not yet timely served Defendant.

IT IS THEREFORE ORDERED that Plaintiff **SHALL SHOW CAUSE** why the Court should not dismiss this case without prejudice for failure to timely serve Defendant. Plaintiff shall respond **within fourteen (14) days of the entry of this order**. In order to comply with this Order

to Show Cause, Plaintiff shall file a written response demonstrating good cause as to the failure to timely effect service. *See* Fed. R. Civ. P. 4(m). If Plaintiff fails to timely respond to this Order to Show Cause, or fails to show good cause, this case may be dismissed without prejudice and without further notice.

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE